MEMORANDUM OF UNDERSTANDING

BETWEEN

NEW HANOVER SHERIFF'S OFFICE

AND

THE NORTH CAROLINA STATE BUREAU OF INVESTIGATION

REGARDING

AUTOMATED LICENSE PLATE READERS ON NORTH CAROLINA DEPARTMENT OF TRANSPORTATION PROPERTY AND/OR RIGHTS-OF-WAY

THIS MEMORANDUM OF UNDERSTANDING ("MOU"), dated the ___ day of February, 2025 (the "Effective Date"), is made by and between NEW HANOVER COUNTY SHERIFF'S OFFICE ("LEA"), located at 3950 JUVENILE CENTER RD, CASTLE HAYNE, NORTH CAROLINA, 28429 and the North Carolina State Bureau of Investigation ("NCSBI")(collectively, the "Parties," individually, a "Party").

WHEREAS, the Parties desire to enter into this MOU, memorializing the understanding of the Parties herein to provide a framework for the installation, operation, and maintenance, of automated license plate recognition ("ALPR") systems on North Carolina Department of Transportation ("NCDOT") property, including NCDOT's Rights-of-Way ("ROW"), and to support the law enforcement missions of Participating Law Enforcement Agencies ("LEAs"); and

WHEREAS, the NCSBI is authorized to manage a pilot program for the operation of ALPRs in NCDOT ROW, as set forth in S.L. 2023-151, Section 5, as amended by S.L. 2024-43; and

WHEREAS, NCDOT and NCSBI entered into a separate MOU, pursuant to S.L. 2023-151, Section 5(a), which permitted Participating LEAs to enter into this agreement with NCSBI;

NOW, THEREFORE, in consideration of the mutual covenants, terms, conditions, promises, and obligations contained herein, which the Parties acknowledge to be good and sufficient consideration to support this MOU and bind and obligate the Parties hereto, the Parties hereto agree as follows:

1. RECITALS

    1.1 The above recitals are incorporated into this MOU as though set forth here in verbatim and shall constitute part of the consideration for this MOU.

2. DEFINITIONS FOR THE PURPOSE OF THIS MOU

2.1 "Agency ALPR Coordinator" is the main point of contact within a law enforcement or public safety agency or authority, designated by the law enforcement executive who will be the external point of contact for agency ALPR-related items such as information sharing and audits; internally oversee the agency's ALPR program, including training and approving access requests (may delegate approval authority to other supervisors); and designate authorized users within the agency who can use ALPRs and access stored data.

2.2 "ALPR" is the technology that uses optical character recognition on images to read vehicle registration plates to create vehicle location data. ALPR can be a system consisting of a camera, or cameras, and related equipment that automatically and without direct human control locates, focuses on, and photographs license plates and vehicles that come into range of the device, that automatically converts digital photographic images of scanned license plates into electronic text documents reflecting vehicle location data. The vehicle location data captured by an ALPR device is (1) used to alert law enforcement to vehicles they have a legitimate and specific reason to locate such as vehicles on a Be on the Lookout ("BOLO") list, and (2) stored so that law enforcement may perform searches to further subsequent investigations. The term includes both devices that are placed at a stationary location (whether fixed or portable devices positioned at a stationary location) and devices affixed to a police vehicle and capable of operating while the vehicle is in motion.

2.3 "ALPR Data" is all information obtained by ALPRs in compliance with the law. Typically, it includes images of vehicles and license plate numbers, along with associated metadata such as date/time and location of capture.

2.4 "Participating LEAs" include all law enforcement agencies that execute an agreement/MOU with the NCSBI incorporating this MOU, as supplemented and amended, by reference and agreeing to all sections contained herein.

2.5 "NCSBI ALPR Statewide Coordinator" refers to the person designated by the Director of the NCSBI, to oversee the State's ALPR program generally. This position is currently assigned to the NCSBI. This person is an NCSBI appointed liaison between NCSBI, Participating LEAs, and NCDOT.

2.6 "NCDOT ALPR Coordinator" is an NCDOT appointed liaison between NCDOT Subject Matter Experts (SMEs) and NCSBI responsible for the coordination of this effort.

2.7 "Public Utility" means any of the following: a public utility, as defined in N.C.G.S. § 62-3(23), an electric membership corporation, telephone membership corporation, a joint municipal power agency, or a municipality, as defined in N.C.G.S. § 159B-3(5).

2.8 "Requesting Entity" refers to the NCSBI or a Participating LEA seeking to install ALPR equipment on NCDOT property.

3. POINTS OF CONTACT FOR MOU

The Parties shall provide each other with the name, telephone number, and e-mail address of their respective points of contact regarding this MOU and update the point of contact if he/she changes.

NEW HANOVER COUNTY SHERIFF'S OFFICE Contact:

Lt. Ashley [redacted]

NCSBI Contact: Joseph Newsome, General Counsel
jnewsome@ncsbi.gov
984.354.8008

4. RESPONSIBILITIES OF THE PARTIES

4.1 LEA agrees that it will be bound by the terms, as applicable, of the MOU, as it may be amended, between NCDOT and NCSBI which governs the pilot program for ALPRs.

4.2 LEA agrees that it shall comply with NCDOT guidelines to obtain the necessary approvals for the siting and placement of ALPRs on NCDOT property or ROW and that it will be solely responsible for engaging in that process with NCDOT. LEAs acknowledge that this process may require the submission for review of copies of the draft plans, drawings, design calculations for connections and for the entire structure, and specifications relating to the location and installation of ALPRs.

4.3 LEA acknowledges that NCDOT will not provide Participating LEAs with design services related to ALPR installations.

4.4 LEA agrees to take all steps necessary to share their ALPR data with NCSBI and other agencies participating in the Pilot Program, as facilitated by their vendor.

5. CONDITIONS FOR OPERATION OF THE PILOT PROGRAM

5.1 The use of the NCDOT property or ROW shall be temporary in nature.

5.2 The ALPRs utilized must be above-ground, removeable, and contain no combustible fuels.

5.3 The placement and use of the ALPRs must not unreasonably interfere with the operation and maintenance of public utility facilities or cause the facilities to fail to comply with all applicable laws, codes, and regulatory requirements.

5.4 The authorization by NCDOT to locate an ALPR in ROW is revocable by NCDOT for cause with at least 30 days' notice.

5.5 The use of ALPR systems must comply with the provisions of Article 8A of Chapter 87 of the North Carolina General Statutes.

5.6 The ALPR system must be operated by LEA in accordance with Article 3D of Chapter 20 of the North Carolina General Statutes.

5.7 Placement and use of an ALPR and related equipment must be terminated and removed by the LEA upon request by any affected public utility.

5.8 NCDOT or a public utility may relocate an ALPR and related equipment in the event NCDOT or a public utility needs immediate access to its utilities or facilities and shall only be liable for damages caused solely by its gross negligence or willful misconduct. If an ALPR or related equipment is moved for immediate access, the NCDOT or applicable public utility will provide notice to LEA and NCSBI.

6. SUBMISSION PROCESS

6.1 Any request by NCSBI or LEA for portable ALPR placement on NCDOT ROW will follow the guidelines provided by the NCDOT.

6.2 Any request by NCSBI or LEA for fixed ALPR installation on NCDOT roadways, infrastructure, or ROW must be routed through the NCDOT permits portal with separate notification to the NCDOT ALPR Statewide Coordinator and requires submission of all necessary documentation as set out in the NCDOT guidelines.

6.2.1 To avoid unnecessary interruption of ALPR operation, requesting entities should be aware that proposed installation within NCDOT rights of way that may be in conflict with NCDOT plans or ongoing projects and subject to removal or relocation in the near future may not be approved.

6.2.2 Any request by the NCSBI or LEA for security camera installation on NCDOT ROW will follow the NCDOT ALPR installation process and must be routed through the NCDOT ALPR Coordinator.

6.3 Operation

6.3.1 As part of the installation of ALPRs, the Requesting Entities shall ensure its contractor(s) and consultants are responsible for connecting the ALPRs to electrical and communication service(s) and all associated costs.

6.3.2 Thereafter, the Requesting Entities shall be responsible for the costs of electrical and communication service(s) and data storage capacity.

6.3.3 In the event that electrical and/or communication service(s) is interrupted for any reason (including but not limited to Acts of God, maintenance and operations by the NCDOT), the NCDOT shall not be held responsible in any way.

6.4 Inspection, Maintenance, and Replacement

6.4.1 The Requesting Entities shall periodically ensure the inspection and maintenance of the ALPRs in accordance with the terms and conditions of NCDOT.

6.4.2 All inspections, maintenance, and replacement must be performed by properly trained technicians and must include any needed traffic control as directed by NCDOT.

6.4.3 The Requesting Entities and/or its contractor(s) shall perform any emergency maintenance (that is, any work performed to remedy an unsafe condition of an ALPR or associated equipment)) for the ALPRs immediately and notify the NCDOT of that emergency maintenance within twenty-four (24) hours. If the NCDOT notices that an ALPR requires maintenance, the NCDOT will notify the relevant Requesting Entity. The Requesting Entity responsible for the ALPR and/or its contractor(s) shall perform all emergency maintenance as soon as reasonably possible.

6.4.4 The NCDOT reserves the right to require the Requesting Entity to remove an ALPR if it is not being inspected or maintained by the Requesting Entity. If the NCDOT must remove an ALPR, then the Requesting Entity will be responsible for all removal costs.

6.4.5 Under no circumstances shall an ALPR or its associated conduits, wiring, cables, junction and pull boxes, cabinets, concrete pads, underground conduits, or other supporting components of an ALPR system be abandoned in place. When an ALPR is taken out of service, all supporting components of the ALPR system shall be removed, and the site returned to the preinstallation condition to the satisfaction of the NCDOT. The cost of the removal shall be the responsibility of the Requesting Entity or its successor(s).

6.5 Compliance

6.5.1 All activities that are performed on highways under the jurisdiction of the NCDOT shall comply with all NCDOT-approved guidelines for lane closure and coordination and shall be performed pursuant to applicable federal, state, and local laws and regulations.

6.6 Rights, Removal and Responsibilities

6.6.1 The NCDOT reserves the right to (a) require the relocation (or to request the removal) of any ALPR based on its planning and engineering needs or (b) in an emergency (knockdown or accident) remove ALPR and notify the Requesting Entity. If a location change or removal is necessary, the Requesting Entity will be responsible for all removal and/or reinstallation costs.

6.6.2 The NCDOT shall not be responsible for any relocation of ALPR units installed by the Requesting Entity during replacement of the structures on which these ALPR units are mounted. Any costs associated with ALPR relocation, removal or re-installation shall be the sole responsibility of the Requesting Entity.

6.6.3 The NCDOT shall notify the relevant Requesting Entity for removal or relocation of the ALPR when (a) ALPR structure replacement project is initiated or (b) in response to an emergency (knockdown or accident). The Requesting Entity remains responsible for monitoring and maintaining the ALPR; failure of NCDOT to provide notice in accordance with this subsection shall not be grounds for claims against NCDOT.

6.6.3.1 The NCDOT reserves the right to remove NCDOT infrastructure on which ALPR is installed due to NCDOT construction, maintenance activities or emergency.

6.7 Control of ALPR

6.7.1 Any ALPR owned or operated by the Requesting Entity that is placed, installed, or operated on property owned by or leased to the State of NORTH CAROLINA shall be under the exclusive control and sole responsibility of the Requesting Entity.

6.8 Removal and Disposition of ALPR

6.8.1 The Requesting Entity may remove the ALPRs at any time at its discretion, upon written notice to the NCDOT. Any encroachment agreement shall expire 90 days after the receipt of written notice of ALPR removal.

6.8.2 Removal of ALPR shall not cause any damage to NCDOT assets. The Requesting Entity shall be responsible for any damage to NCDOT assets caused by the removal of ALPR assets.

6.8.3 Requesting Entities shall be responsible for the cost of removing the ALPRs and all supporting components of the ALPR system, including, but not limited to associated conduits, wiring, cables, junction and pull boxes,

cabinets, concrete pads, underground conduits, or other supporting components of an ALPR system as well as site restoration costs.

7. ALPR INFORMATION SHARING

7.1 NCSBI and/or LEA shall receive, use, and share ALPR data generated or obtained from the ALPRs installed pursuant to this MOU.

7.2 Pursuant to S.L. 2023-151, Section 5, as amended by S.L. 2024-43 the LEA shall provide to the NCSBI ALPR Coordinator information pertaining to their use of ALPRs installed pursuant to this MOU. This information shall include the Participating LEA's written policy governing the use of each system, the number of license plates captured by each system, and the number of occasions data captured by each system was preserved for more than 90 days during the pilot program, pursuant to the provisions established in G.S. § 20-183.32(b). This information shall be provided by the Participating LEA to the NCSBI ALPR Coordinator by March 1, 2026 and upon request in accordance with additional guidelines established by the NCSBI.

7.3 NCSBI and/or LEA agree to only receive, use, and share ALPR data generated or obtained pursuant to this MOU for official and legitimate law enforcement purposes only, as permitted, supplemented and amended, and in accordance with applicable Federal and State laws.

7.4 The NCDOT shall not access law enforcement-related ALPR information obtained from any ALPR installed pursuant to this MOU.

7.5 If not already in place, LEA shall create an ALPR policy prior to placement of ALPR cameras within the NCDOT ROW.

7.6 LEA shall provide a copy of its ALPR policy (e.g., standard operating procedures, directives, or orders that govern ALPRs and stored ALPR data) for review and approval by NCSBI.

7.7 LEA must designate an Agency ALPR Coordinator who shall ensure that all authorized users complete required ALPR Training with the NCSBI.

7.8 ALPR Searches will be conducted only in accordance with a legitimate law enforcement purpose.

7.9 The NCSBI ALPR Coordinator reserves the right to conduct an audit of use at any time to ensure compliance.

7.10 LEA shall provide notification of any citizen complaints about the ALPR program or significant violations of this Agreement regarding the use of ALPR upon discovery to the NCSBI ALPR Coordinator.

7.11 In the event of receipt of a public records request, subpoena, court order, or any other outside request for any Data shared between the Parties, LEA shall promptly notify the NCSBI ALPR Coordinator upon receipt of the request and whether it intends to release Data or other records that are subject to this Agreement to the requestor. LEA shall raise any good faith objections to the release of the Data permitted by state and federal law. The release of any data shall be determined under the laws of North Carolina and applicable federal law, if any. NCSBI shall have the right to pursue legal and/or equitable remedies to stop or limit disclosure.

7.12 If LEA discovers or reasonably suspects that an improper or unauthorized access or use of ALPR Data has occurred, the Participating LEA shall immediately notify the NCSBI ALPR Coordinator.

7.13 The NCSBI shall not be held liable for use or misuse of the Data disclosed pursuant to this Agreement by LEA.

7.14 LEA agrees that the State of North Carolina, NCSBI, their agents and assigns, and employees, shall not be liable for any alleged acts or omissions committed by LEA, its employees, representatives, agents, contractors, or invitees, related to this Agreement.

7.15 To the extent permitted by applicable law, LEA shall indemnify and hold the State of North Carolina, NCSBI, their agents and assigns, and employees harmless for any and all claims, lawsuits, causes of action, damages, or the like, and for all costs incurred in relation to the defense of any criminal actions or civil suits, proposed settlements, which may arise from any intentional act, negligence, or omission by LEA, its employees, representatives, agents, contractors or invitees, related to this Agreement or related to data received under this Agreement.

7.16 The liability of the NCSBI is governed by the North Carolina Tort Claims Act, other applicable state and federal laws as well as the availability of funding.

8. STATUS OF DATA CAPTURED BY ALPRS.

8.1 The Parties acknowledge and agree that all ALPR information is not a public record and is therefore exempt from disclosure under the N.C. Public Records law and other applicable State laws.

9. COSTS

This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds. Unless otherwise agreed to in writing, each Party shall bear its own costs in relation to this MOU. Expenditures by each Party will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies.

The Parties expressly acknowledge that this in no way implies an appropriation of funds for such expenditures.

10. SEVERABILITY

Nothing in this MOU is intended to conflict with applicable Federal or State law, or with the policy of any Party. If a provision of this MOU is inconsistent with applicable Federal or State law, or with a Party's policy, then the Party shall immediately advise the other Party, and the Parties shall then determine whether the remaining provisions of this MOU shall continue in effect.

11. EFFECT ON OTHER AUTHORITIES

Nothing in this MOU is intended to restrict the authority of any Party to act as permitted by law, or to restrict any Party from administering or enforcing any law.

12. TERM

This MOU is effective immediately upon the signature of all Parties and shall expire no later than July 1, 2026, in accordance with S.L. 2024-43, Section 3.(c). In the event legislation is enacted allowing the extension of the pilot program or the permanent establishment of an ALPR program, this MOU may be renewed or extended, pursuant to a written agreement, executed by the Parties.

13. ENTIRE AGREEMENT

This MOU represents the entire understanding and agreement between the Parties concerning the placement of ALPRs on ROW, and no amendment or modification of this MOU shall be effective, unless in writing, signed by the Parties and approved as required by law.

14. NO THIRD-PARTY BENEFICIARIES

No Party intends to create the status of third-party beneficiary in any other individual or entity, and this MOU shall not be construed to create such status. The rights, duties, and obligations contained in this MOU shall operate only between the Parties and shall inure solely to their benefit. The provisions of this MOU are intended only to assist the Parties in determining and performing their obligations under this MOU. Additionally, the parties agree that the sole remedy for non-performance under this MOU shall be termination with no damages or penalty available to any party.

15. NO PRIVATE RIGHTS CREATED

This MOU does not create any private right or benefit, substantive or procedural, enforceable in law or in equity, against the State of NORTH CAROLINA, the NCDOT, the NCSBI, LEA, or any person.

16. LIABILITY

The Requesting Entities shall be responsible for personal injuries and property damage caused by the actions of their employees and/or agents occurring during the performance of their obligations under this MOU.

17. ASSIGNMENT

This MOU may not be assigned or otherwise transferred by a Party without the prior written consent of the other Party. Under this MOU, no such assignment or transfer shall relieve the Parties of any of their obligations or liabilities, whether accrued or un-accrued.

18. NON-WAIVER

The failure by a Party to insist on performance of any term or condition or to exercise any right or privilege included in this MOU shall not constitute a waiver of same unless explicitly denominated in writing as a waiver and shall not thereafter waive any such term or condition and/or any right or privilege. No waiver by a Party of any breach of any term of this MOU shall constitute a waiver of any subsequent breach or breaches of such term.

19. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute one and the same instrument.

20. ELECTRONIC SIGNATURES

The Parties agree that the execution of this MOU by electronic signature and/or by exchanging PDF signatures will have the same legal force and effect as the exchange of original signatures. By execution, delivery and performance of this MOU, each Party represents to the other Party that it has been duly authorized by all requisite action on its part. This MOU constitutes the legal, valid, and binding obligation of the Parties.

[Remainder of page intentionally left blank; signature page to follow]

IN WITNESS WHEREOF, the Parties, duly authorized, have executed this MOU, effective as of the day and date last below written.

FOR NEW HANOVER COUNTY SHERIFF'S OFFICE:

Edward J. McMahon
Sheriff, New Hanover County

Date: 2-20-25

FOR NORTH CAROLINA STATE BUREAU OF INVESTIGATION:

R.E. "Chip" Hawley, Director

Date: _____